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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 TONY BLACKMAN,

12 Plaintiff,

13 v.

14 GAVIN NEWSOME, *et al.*,

15 Defendants.
16

Case No. 1:24-cv-1267 JLT CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS, AND DIRECTING
PLAINTIFF TO PAY THE FILING FEE
WITHIN 30 DAYS

(Docs. 2, 5)

17 Tony Blackman, a state prisoner proceeding *pro se*, seeks to proceed *in forma pauperis* in
18 this action. (Docs. 1, 2.) The magistrate judge found Plaintiff had at least three “strikes” under
19 28 U.S.C. § 1915 prior to filing this action and “is therefore subject to the section 1915(g) bar.”
20 (Doc. 5 at 3-4.) The magistrate judge observed that in the complaint, “Plaintiff alleges that
21 Defendants rejected his appeals, denied him access to the law library, retaliated against Plaintiff
22 and involuntarily transferred him to a different facility, and falsely imprisoned him.” (*Id.* at 4-5.)
23 The magistrate judge found these allegations do not establish that Plaintiff faced “imminent
24 danger of serious physical injury at the time he filed the complaint.” (*Id.* at 5.) Therefore, the
25 magistrate judge found the imminent danger exception to section 1915(g) inapplicable and
26 recommended the motion to proceed *in forma pauperis* be denied. (*Id.*)

27 The Court served the Findings and Recommendations on Plaintiff and notified him that
28 any objections were due within 14 days. (Doc. 5 at 5.) The Court advised Plaintiff that “failure

1 to file any objections within the specified time may result in the waiver of certain rights on
2 appeal.” (*Id.* at 6, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).)

3 Plaintiff did not file any objections, and the time to do so has passed. However, Plaintiff
4 filed an amended complaint on November 6, 2024. (Doc. 6.) Plaintiff attached a “Notice of
5 Electronic Filing” concerning the Findings and Recommendations to this amended complaint, and
6 notations on the page assert: “U.S. federal court officials refuse to acknowledge by wrongfully
7 forcing Plaintiff who’s in restraints behind state prison close door to pay money to receive
8 procedure protection U.S. Federal Court order of reassignment on Governor of California Mr.
9 Gavin Newsome.” (*Id.* at 10.) Thus, it appears Plaintiff disagrees with the recommendation that
10 he be directed to pay the filing fee to proceed with this action against the Governor and the other
11 named defendants. (*See id.*) However, Plaintiff does not dispute the finding that he has three
12 strikes under Section 1915 nor does he allege additional facts that establish he is at risk of
13 imminent danger of serious physical injury.

14 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
15 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
16 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 17 1. The Findings and Recommendations issued on October 24, 2024 (Doc. 5) are
18 **ADOPTED** in full.
- 19 2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
- 20 3. Plaintiff **SHALL** pay in full the \$405.00 filing fee if he wishes to proceed with his
21 action, within 30 days from the date of service of this order.

22 **Plaintiff is advised that failure to pay the required filing fee as ordered will result in**
23 **the dismissal of this action without prejudice.**

24
25 IT IS SO ORDERED.

26 Dated: **November 19, 2024**

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UNITED STATES DISTRICT JUDGE